

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF: )  
 )  
DENALI SPECTRUM OPERATIONS, )  
LLC d/b/a CRICKET )  
COMMUNICATIONS, INC. )  
 ) No. 07-0625  
Application for Authority to )  
operate as a Wireless Carrier )  
Facilities Based on a Statewide )  
Basis in the State of Illinois.)

Chicago, Illinois

January 30, 2008

Met pursuant to notice at 10:00 a.m.

BEFORE :

MR. JOHN RILEY, Administrative Law Judge.

APPEARANCES :

MS. JENNIFER TOLAND  
1919 Pennsylvania Avenue, NW  
Washington, D.C.  
    Appeared for the Applicant,  
    telephonically.

SULLIVAN REPORTING COMPANY, by  
Teresann B. Giorgi, CSR

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I N D E X

<u>Witnesses:</u>	<u>Dir.</u>	<u>Crx.</u>	<u>Re-</u> <u>dir.</u>	<u>Re-</u> <u>crx.</u>	<u>By</u> <u>Examiner</u>
Brian Root	5				6

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
1	--	14
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1 JUDGE RILEY: Pursuant to the direction of  
2 the Illinois Commerce Commission, I call  
3 Docket 07-0625. This is an application by Denali  
4 Spectrum Operations, LLC d/b/a Cricket  
5 Communications, Inc., for authority to operate as a  
6 wireless carrier - facilities based on a statewide  
7 basis in the State of Illinois.

8 Ms. Toland, are you counsel for the  
9 Applicant?

10 MS. TOLAND: Yes, I am.

11 JUDGE RILEY: Would you enter an appearance,  
12 stating your name and business address, please.

13 MS. TOLAND: Yes, your Honor.

14 My name is Jennifer Toland, and that's  
15 spelled J-e-n-n-i-f-e-r, Toland, T-o-l-a-n-d. And  
16 my business address is Davis, Wright, Tremaine,  
17 that's Davis, W-r-i-g-h-t, Tremaine,  
18 T-r-e-m-a-i-n-e. The address for that is 1919  
19 Pennsylvania Avenue, NW, Suite 200, Washington, D.C.  
20 I'm Counsel for the Applicant in this proceeding.

21 And I would also like to request  
22 procedural -- pursuant to the Commission's

1 procedural rules pro hac vice status for this  
2 hearing. I'm not a member of the Illinois Bar, but  
3 I am a member in good-standing of the Bar of the  
4 District of Columbia.

5 JUDGE RILEY: And that motion is granted.

6 MS. TOLAND: Thank you, your Honor.

7 JUDGE RILEY: And this time, did you want to  
8 call a witness on behalf of the application?

9 MS. TOLAND: Yes, your Honor. I would like to  
10 call Brian Root, who is the manager of wireless  
11 operations at Denali Spectrum.

12 (Witness sworn.)

13 JUDGE RILEY: Ms. Toland, please proceed with  
14 any direct examination you may have.

15 MS. TOLAND: Thank you, your Honor.

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1                               BRIAN ROOT,  
2   called as a witness herein, and after having been  
3   first duly sworn, was examined and testified as  
4   follows:

5                               DIRECT EXAMINATION

6                               BY

7                               MS. TOLAND:

8       Q     Mr. Root, could you please state your name,  
9   title and business address for the record.

10      A     Sure.  It's Brian Root, that's B-r-i-a-n,  
11   Root, R-o-o-t, title is wireless operations manager  
12   for Denali Spectrum.  My address is 8619 West  
13   Bryn Mawr, Suite 615, Chicago, Illinois 60631.

14      Q     Thank you, Mr. Root.

15                           And, Mr. Root, are you familiar with  
16   the application and the exhibits that were filed in  
17   this docket?

18      A     Yes, I am.

19      Q     And is the information contained therein  
20   true and correct in all material respect to the best  
21   of your knowledge?

22      A     Yes, it is.

1           Q       Thank you.

2                       Mr. Root, do you have any corrections

3 or additions to the application?

4           A       I do not.

5           MS. TOLAND: Judge Riley, I have no further

6 direct at this time.

7           JUDGE RILEY: All right. Let me just ask a few

8 of my own questions.

9                       EXAMINATION

10                      BY

11                      JUDGE RILEY:

12          Q       This is a request for a certificate under

13 Section 13-401 for wireless resold services only, is

14 that correct?

15          MS. TOLAND: That's correct, your Honor.

16          JUDGE RILEY: Excuse me, Ms. Toland --

17          MS. TOLLER: I'm sorry. I believe we're asking

18 for facilities based authority. This is Ms. Toller.

19          JUDGE RILEY: Okay. Hold on. Who is

20 testifying? Mr. Root is testifying.

21          Q       Do you need to confer with Counsel?

22          A       Generally, on some of these questions, yes.

1       Q     All right.  Then, is it your testimony that  
2 the Company is requesting facilities based wireless  
3 service in Illinois?

4       A     Yes.

5       Q     So it is not resold.

6                   Where are the books and records,  
7 principal books and records of the Company to be  
8 kept?

9       A     They're to be kept in Fairbanks, Alaska.

10      Q     Fairbanks, Alaska.

11      A     1 Doyon Place.

12      Q     Okay.  And is the Applicant requesting  
13 permission to keep those books and records at its  
14 principal place of business in Alaska?

15      A     Yes.

16      Q     And will the books and records be available  
17 to Illinois auditors -- auditors of the Illinois  
18 Commerce Commission for inspection upon request?

19      A     Yes.

20      Q     Mr. Root, what is your background in  
21 telecommunications?

22      A     My background, I've got, approximately, 14

1 years experience in wireless and real estate  
2 facilities based is my background with emphasis on  
3 leasing cell tower -- cell tower leasing.

4 Q All right. And how many employees, if you  
5 know, if you could roughly estimate, does Denali  
6 have?

7 A Denali Spectrum, less than 25.

8 Q Are they all located in Alaska?

9 A I am located here in Chicago.

10 Q But, you're located in Chicago.

11 A Yes.

12 Q Is everybody else in Alaska?

13 A Yes.

14 Q And in the event that technical support is  
15 needed for your operation, who would do that? Would  
16 it be Denali itself, or will you be contracting out  
17 for support?

18 A We are contracting out for support in some  
19 areas.

20 Q Okay.

21 MS. TOLAND: Your Honor, if I may interject,  
22 Denali Spectrum operations will be operating



1 pursuant to a management service agreement with  
2 Cricket Communications, and Cricket Communications  
3 will be handling their support work.

4 JUDGE RILEY: There is an actual entity called  
5 Cricket Communications?

6 MS. TOLAND: I'm sorry, your Honor.

7 JUDGE RILEY: Is there an actual entity called  
8 Cricket Communications?

9 MS. TOLAND: Yes, there is, your Honor. That  
10 entity is in the process of preparing an  
11 application, as well.

12 JUDGE RILEY: All right. That is all the  
13 questions that I have for Mr. Root.

14 Ms. Toland, you had sent the Clerk's  
15 Office a letter this morning.

16 MS. TOLAND: That's correct, your Honor.

17 JUDGE RILEY: And it stated it -- it had  
18 attachments to it, stating that Denali intends to do  
19 business under the name Cricket and not under the  
20 name Cricket Communications, Inc., and that Cricket  
21 is an actual service mark that is duly registered  
22 with the United States Patent and Trademark Office.

1 MS. TOLAND: Yes, your Honor. We would like to  
2 move to correct that portion of the application, our  
3 response to Question 1, so that it duly notes that  
4 Denali Spectrum Operations will be operating under  
5 the brand name, which would be service mark Cricket.

6 JUDGE RILEY: And it is the Company's  
7 contention, I understand, that because Cricket is a  
8 registered service mark that it is not necessary for  
9 the Company to obtain a Certificate of Authority to  
10 transact business under an assumed name in Illinois  
11 from the Secretary of State's Office, is that  
12 correct?

13 MS. TOLAND: That's correct, your Honor.

14 JUDGE RILEY: And you have cited  
15 805 ILCS 180/1-5 in support of that.

16 MS. TOLAND: Yes. The applicable provision of  
17 the Illinois Limited Liability Company Act.

18 JUDGE RILEY: Okay. I have also consulted that  
19 statute and I agree that that is what it says, and  
20 let's read it into the record.

21 "Assume the limited liability company  
22 name means any limited liability company name

1       other than the true limited liability company  
2       name except that the identification by a  
3       limited liability company of its business with  
4       a trademark or service mark of which it is  
5       the owner or a licensed user shall not  
6       constitute the use of an assumed name under this  
7       Act."

8                   I guess, my only question would be,  
9   then, if -- Mr. Root, if you know, is Denali the  
10 owner or licensed user of Cricket or is Cricket the  
11 owner or licensed user of Denali?

12       A       Can you just repeat that?

13       Q       All right. It states, ". . .except that  
14 the identification by a limited liability company of  
15 its business with a trademark or service mark of  
16 which it is the owner or a licensed user. . ."

17                   Is Denali --

18       A       Denali Spectrum is the owner and licensed  
19 user.

20       Q       Of Cricket?

21       A       Jennifer -- may I refer to --

22       JUDGE RILEY: All right, consult your --

1 MS. TOLAND: Yes, your Honor, if I may  
2 interject.

3 There was a licensed use agreement  
4 that was signed between the parties in July of 2006,  
5 and Denali Spectrum is a licensed user of the brand  
6 name Cricket, Cricket being a duly registered  
7 service mark.

8 JUDGE RILEY: That answers my question, then.

9 THE WITNESS: Thank you.

10 MS. TOLAND: Your Honor, if I may? There is  
11 also one additional amendment that we would move to  
12 make to the application.

13 JUDGE RILEY: Go ahead.

14 MS. TOLAND: That is to our response to  
15 Question 15, the president and CEO, Orie Williams,  
16 effective the 11th of January of this year, is no  
17 longer with the Company. The acting president and  
18 CEO is James Mery, and that is spelled J-a-m-e-s  
19 M-e-r-y.

20 JUDGE RILEY: And the officer who was the  
21 president and Chief Executive Officer who has  
22 departed is Orie Williams?

1 MS. TOLAND: That is correct.

2 JUDGE RILEY: That first name is O-r-i-e.

3 MS. TOLAND: Yes. That is correct.

4 JUDGE RILEY: And the new president and Chief  
5 Executive Officer is James --

6 MS. TOLAND: Mery, M-e-r-y.

7 JUDGE RILEY: "N" as in Nancy?

8 MS. TOLAND: "M" as in Mary.

9 JUDGE RILEY: Okay. M-e-r-y.

10 MS. TOLAND: Yes, your Honor.

11 JUDGE RILEY: Thank you.

12 Then let the record reflect that  
13 Counsel's motion to amend the application to reflect  
14 the doing business as name of Cricket only instead  
15 of Cricket Communications, Inc., is granted.

16 And the motion to amend the answer to  
17 Question 15 on the application, that the president  
18 and Chief Executive Officer of the Company is no  
19 longer Orië Williams, it is James Mery, that motion  
20 is granted.

21 The only other thing that I want to  
22 take care of now, would be the admission of the

1 exhibits.

2 Counsel, the letter and the  
3 attachments that you submitted to the Clerk's Office  
4 this morning, the letter dated January 29, 2008,  
5 with the attachments from the U.S. Certificate of  
6 Registration, along with the Trademark License  
7 Agreement between Cricket and Denali, I'd like to  
8 mark that as Applicant's Exhibit 1.

9                               And the financial information that you  
10 had submitted to me earlier, I'd like to mark that  
11 as Applicant's Exhibit 2.

12                   And I trust that you're moving for the  
13 admission of both of these exhibits into evidence?

14 MS. TOLAND: Yes. I move to have all these  
15 exhibits submitted into evidence.

16 JUDGE RILEY: Applicant's Exhibits 1 and 2 are  
17 admitted.

18 (Whereupon, Applicant's  
19 Exhibits 1 and 2 were  
20 admitted into evidence.)

21 MS. TOLLER: And your Honor, this is Ms. Toller.

22 Can I clarify one thing?

1                   Exhibit 2, the financial statements we  
2 submitted under seal to the Commission as an  
3 attachment to the original application. I just want  
4 to make sure that the exhibit itself will remain  
5 under seal.

6           JUDGE RILEY: Counsel, I take it then, that  
7 you're motioning for the provision of confidential  
8 and proprietary treatment to the financial  
9 information that was submitted to the Commission?

10          MS. TOLAND: Yes, your Honor. Pursuant to  
11 Title 83 Section 200.605, we wish to have those  
12 treated as confidential.

13          JUDGE RILEY: Please say the cite again.

14          MS. TOLAND: 83 Illinois Administrative Code  
15 200.605.

16          JUDGE RILEY: Right. Okay. That motion is  
17 granted. And the financial information will remain  
18 under seal.

19          MS. TOLAND: Thank you, your Honor.

20          JUDGE RILEY: There was also submitted to us  
21 what I call management profiles for two individuals,  
22 a Mr. David Davis, a senior vice president and a

1 Robert Irving, Jr., a senior vice president and  
2 general counsel, and I believe that was on our  
3 Commission e-Docket system.

4 MS. TOLAND: Yes, that is correct.

5 JUDGE RILEY: And I would like to mark that as  
6 Applicant's Exhibit 3. And I trust you're moving  
7 for the admission of that into evidence.

8 MS. TOLAND: Yes, your Honor. I move to have  
9 Exhibit 3 moved into evidence.

10 JUDGE RILEY: That motion is granted.

11 (Whereupon, Applicant's  
12 Exhibit 3 was admitted  
13 into evidence.)

14 JUDGE RILEY: That's all the questions I have  
15 and that should take care of all the matters.

16 Did you have anything further that you  
17 wanted to -- any further questions that you had for  
18 your witness?

19 MS. TOLAND: Not for the witness, your Honor. I  
20 do have one final matter that I was hoping to  
21 address.

22 JUDGE RILEY: All right.



1 MS. TOLAND: As a facilities based provider, the  
2 Applicant has initiated the process of obtaining the  
3 required construction permits; however, there are  
4 certain counties that will not allow the Applicant  
5 to proceed in this process until there has been a  
6 determination in this proceeding.

7 I was wondering that at this point it  
8 is possible to determine a time frame until a  
9 decision is rendered in this docket.

10 JUDGE RILEY: I can give you this, because I can  
11 most likely write this thing up today or tomorrow.  
12 And I don't know if I can get it on the agenda for  
13 February 6.

14 MS. TOLAND: Okay.

15 JUDGE RILEY: Our next Bench session would be  
16 February 27. So it's possibly -- it could take as  
17 much as a month before I can get it before the  
18 Commission.

19 MS. TOLAND: Okay. Thank you, your Honor.

20 JUDGE RILEY: I will endeavor to get it before  
21 the Commission on February 6. I just can't promise  
22 anything.

1 MS. TOLAND: Thank you, your Honor.

2 JUDGE RILEY: Then if there are no further  
3 questions, I will direct the court reporter to mark  
4 this matter heard and taken. I will have this order  
5 forwarded to the Commission at the earliest possible  
6 time.

7 Thank you very much.

8 MS. TOLAND: Thank you, Judge Riley.

9 HEARD AND TAKEN

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